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Attorney's Docket No. 018413-002

Patent

*#11/gm*
*01.09.97*

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|---|---|
| In re Patent Application of | ) BOX AF |
| | ) |
| RICHARD J. GREFF, et al. | ) |
| | ) Group Art Unit: 1511 |
| Application No.: 08/507,863 | ) |
| | ) Examiner: P. Niland |
| Filed: July 27, 1995 | ) |
| | ) |
| For: NOVEL COMPOSITIONS FOR | ) |
| USE IN EMBOLIZING | ) |
| BLOOD VESSELS | ) |

## DECLARATION OF MICHAEL L. JONES PURSUANT TO 37 C.F.R. §1.116(a)

The Assistant Commissioner for Patents
BOX AF
Washington, D.C. 20231

Sir:

I, MICHAEL L. JONES, hereby declare:

1. I am a joint inventor for the above-noted application.

2. I have a BS in Chemical Engineering from University of California, Berkeley and a MS in Engineering from California State University, Long Beach and am experienced in the preparation and use of embolic compositions as set forth in the claims of this application

3. I am currently employed as a Senior Project Engineer at MicroTherapeutics, Inc., assignee of the entire right, title and interest in this application.

4. I am familiar with the final Office Action received in the above-noted application including the assertion that ethylene vinyl alcohol copolymers would be swellable in water.

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5. In order to determine whether such copolymers are, in fact, swellable in the presence of water, I conducted the experiment set forth in Appendix A wherein pellets of ethylene vinyl alcohol copolymer were added to water for 13+ hours. If this polymer is swellable in the presence of water, water would be expected to become entrapped within the polymer and the size and weight of the pellets would increase.

6. As shown in Appendix A attached, the size and weight of these pellets both before and after immersion were as follows:

WEIGHT:         Before Immersion            3.128 g
                After 13+ hours Immersion   3.133 g
                15 minutes later            3.128 g


AVERAGE SIZE:   Before Immersion   0.0531 inches ± 0.0009
                After Immersion    0.0538 inches ± 0.0007


7. Based on the data above, the size and weight of these pellets did not materially change after 13+ hours of immersion in saline as compared to the size and weight prior to saline immersion and, hence, the data evidences that this polymer is not water swellable.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the

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United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

_Michael L. Jones_

Michael L. Jones

Date: 1/2/97

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## APPENDIX A

The following experiment was conducted in order to determine the swellability of ethylene vinyl alcohol copolymers in water.

1. Pellets of ethylene vinyl alcohol copolymer[1] (3.128 g, 48 mol percent ethylene) stored under ambient conditions of temperature and humidity were added into a polyethylene dish and then immersed in saline (20 mL) and left immersed in the saline for 13.25 hours. The average size of these pellets prior to immersion was 0.0531 inches with a standard deviation of 0.0009 inches.

2. At that point, filteration through filter paper removed the saline and the pellets were padded dry with a lint free wipe.

3. The recovered pellets were then placed into a new polyethylene dish and reweighed.[2]

4. The weight of the pellets after immersion for 13.25 hours was 3.133 g and there was some clumping of the pellets due to surface moisture. The pellets were reweighed fifteen (15) minutes later and the weight recorded was 3.128 g.

5. The average size of the pellets after reweighing was determined to be 0.0538 inches with a standard deviation of 0.0007 inches.

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[1]    Purchased under the tradename EVAL G-156A from EVAL Company of America, Lisle, Illinois, USA.

[2]    All weights were determined on a Mettler balance.